

SUMMARIZED MINUTES
SCOTTSDALE CITY COUNCIL
REGULAR MEETING
MONDAY, DECEMBER 3, 2012



CITY HALL KIVA
3939 N. DRINKWATER BOULEVARD
SCOTTSDALE, AZ 85251

CALL TO ORDER

Mayor W.J. "Jim" Lane called to order a Regular Meeting of the Scottsdale City Council at 5:04 P.M. on Monday, December 3, 2012, in the City Hall Kiva.

ROLL CALL

Present: Mayor W.J. "Jim" Lane
Vice Mayor Dennis E. Robbins
Councilmembers Lisa Borowsky, Suzanne Klapp, Robert W. Littlefield,
Ron McCullagh, and Linda Milhaven

Also Present: Acting City Manager Dan Worth
City Attorney Bruce Washburn
City Treasurer David Smith
City Auditor Sharron Walker
City Clerk Carolyn Jagger

PLEDGE OF ALLEGIANCE – Councilman Ron McCullagh

INVOCATION – Chaplain Jim Ek, Scottsdale Healthcare

MAYOR'S REPORT

Mayor Lane encouraged citizens to help fight hunger by participating in the Empty Bowls event at the Scottsdale Community College on Wednesday, December 5, from noon to 6:00 P.M.

CITY MANAGER'S REPORT - None

PRESENTATIONS/INFORMATION UPDATES – None

PUBLIC COMMENT – None

NOTE: IN ACCORDANCE WITH PROVISIONS OF THE ARIZONA REVISED STATUTES THE SUMMARIZED MINUTES OF CITY COUNCIL MEETINGS ARE NOT VERBATIM TRANSCRIPTS. THESE MINUTES ARE INTENDED TO BE AN ACCURATE REFLECTION OF ACTION TAKEN BY THE CITY COUNCIL. DIGITAL RECORDINGS OF CITY COUNCIL MEETINGS ARE ON FILE IN THE CITY CLERK'S OFFICE.

ADDED ITEMS

A1. Added Items

Consent Item No. 19A and Regular Item No. 22A were added to the agenda November 29, 2012.

Request: Vote to accept the agenda as presented or continue the added item(s) to the January 8, 2013 Council Meeting.

MOTION AND VOTE – ADDED ITEMS

Councilman Littlefield moved to accept the agenda as presented. Councilwoman Klapp seconded the motion, which carried 7/0.

CONSENT AGENDA

1. **Yard House Liquor License (110-LL-2012)**
Request: Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for an Agent and Acquisition of Control Change for an existing series 12 (restaurant) liquor license.
Location: 7014 E. Camelback Road, Suite 612
Staff Contact(s): Tim Curtis, Current Planning Director, 480-312-4210, tcurtis@scottsdaleaz.gov
2. **Tavern Americana Liquor License (111-LL-2012)**
Request: Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a person transfer of a series 6 (bar) liquor license for an existing location with a new owner.
Location: 20469 N. Hayden Road
Staff Contact(s): Tim Curtis, Current Planning Director, 480-312-4210, tcurtis@scottsdaleaz.gov
3. **Voila Liquor License (112-LL-2012)**
Request: Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) liquor license for an existing location with a new owner.
Location: 10135 E. Via Linda
Staff Contact(s): Tim Curtis, Current Planning Director, 480-312-4210, tcurtis@scottsdaleaz.gov
4. **Franco's Italian Caffè Liquor License (114-LL-2012)**
Request: Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) liquor license for an existing location with a new owner.
Location: 4327 N. Scottsdale Road
Staff Contact(s): Tim Curtis, Current Planning Director, 480-312-4210, tcurtis@scottsdaleaz.gov
5. **Seven Sushi Steakhouse Liquor License (115-LL-2012)**
Request: Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) liquor license for an existing location with a new owner.
Location: 7144 E. Stetson Drive, Suite 205
Staff Contact(s): Tim Curtis, Current Planning Director, 480-312-4210, tcurtis@scottsdaleaz.gov

6. **EPIQ Liquor License (116-LL-2012)**
Request: Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a person transfer of a series 6 (bar) liquor license for an existing location with a new owner.
Location: 4426 N. Saddlebag Trail
Staff Contact(s): Tim Curtis, Current Planning Director, 480-312-4210, tcurtis@scottsdaleaz.gov
 7. **Emily's Cafe Liquor License (117-LL-2012)**
Request: Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) liquor license for an existing location with a new owner.
Location: 8700 E. Pinnacle Peak Road, Suite 107
Staff Contact(s): Tim Curtis, Current Planning Director, 480-312-4210, tcurtis@scottsdaleaz.gov
 8. **Metropolis Liquor License (118-LL-2012)**
Request: Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) liquor license for an existing location with a new owner.
Location: 7137 Rancho Vista Drive, Suite B33
Staff Contact(s): Tim Curtis, Current Planning Director, 480-312-4210, tcurtis@scottsdaleaz.gov
 9. **Permanent Extension of Premise for Italian Grotto (70-EX-2012)**
Request: Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a permanent extension of premises for a series 12 (restaurant) liquor license.
Location: 3915 N. Scottsdale Road
Staff Contact(s): Tim Curtis, Current Planning Director, 480-312-4210, tcurtis@scottsdaleaz.gov
- (Item 9 was removed from the consent agenda for separate action, see page 6.)
10. **Permanent Extension of Premise for Tom's Thumb Fresh Market (102-EX-2012)**
Request: Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a permanent extension of premises for a series 7 (beer and wine bar) liquor license.
Location: 9393 E. Bell Road
Staff Contact(s): Tim Curtis, Current Planning Director, 480-312-4210, tcurtis@scottsdaleaz.gov
 11. **Italian Grotto Outdoor Dining License Agreement**
Request: Adopt **Resolution No. 9212** authorizing Outdoor Dining License Agreement No. 2012-159-COS with M.S. White Enterprises LLP, for a patio area to be installed within the City right-of-way.
Location: 3915 N. Scottsdale Road
Staff Contact(s): Derek Earle, Public Works Acting Executive Director, 480-312-2776, dearle@scottsdaleaz.gov

(Item 11 was removed from the consent agenda for separate action, see page 6.)

12. Northsight Boulevard Extension Project Construction Services Contract

Requests:

1. Adopt **Resolution No. 9204** authorizing CM@Risk Construction Services Contract No. 2012-156-COS with Achen-Gardner Construction, LLC, in the amount of \$7,881,147.75, for the Northsight Boulevard Extension Project.
2. Authorize a payment to Arizona Public Service in the approximate amount of \$375,000 for the relocation of existing underground electrical utilities in conflict with construction at Northsight Boulevard where APS has prior rights.
3. Adopt **Resolution No. 9241** authorizing a budget appropriation transfer in the amount of \$900,000 from CIP Project S1103, Airpark Area Access Projects Phase 1, and a \$7,114,000 FY 2012/13 General Fund Capital Contingency Appropriation transfer to a newly created CIP project titled Northsight Boulevard Extension, to be funded by the half-cent regional tax.

Staff Contact(s): Derek Earle, Public Works Acting Executive Director, 480-312-2776, dearle@scottsdaleaz.gov

13. Water Resources Pump Station Wireless License Agreement

Request: Adopt **Resolution No. 9013** authorizing License Agreement No. 2012-025-COS with Verizon Wireless, LLC permitting the installation and operation of a wireless site at the Water Resources Pump Station 126 at Los Gatos and Pima Road.

Location: 8845 E. Los Gatos Drive

Staff Contact(s): Derek Earle, Public Works Acting Executive Director, 480-312-2776, dearle@scottsdaleaz.gov

14. Ambulance Contract Extension

Request: Adopt **Resolution No. 9268** authorizing Contract No. 2005-162-COS-A4, an amendment to the ambulance contract with Professional Medical Transport, Inc., for a two-year extension, for the period of February 17, 2013 to February 16, 2015, and amending certain other provisions of the contract.

Staff Contact(s): Alan Rodbell, Public Safety Executive Director, 480-312-1900, arodbell@scottsdaleaz.gov

15. Legal Fees for Fenyves v. City of Scottsdale et al.

Request: Adopt **Resolution No. 9273** authorizing legal fees to be incurred in Contract No. 2011-011-COS with the law firm of Jones, Skelton & Hochuli, PLC, for a total amount not to exceed \$135,000, for the defense of *Fenyves v. City of Scottsdale et al.*, Cause No. CV2010-025160, currently pending in Maricopa County Superior Court.

Staff Contact(s): Bruce Washburn, City Attorney, 480-312-2405, bwashburn@scottsdaleaz.gov

16. Legal Fees for Loxas v. City of Scottsdale et al.

Request: Adopt **Resolution No. 9279** authorizing legal fees to be incurred in Contract No. 2011-011-COS with the law firm of Jones, Skelton & Hochuli, PLC, for an amount not to exceed \$250,000 for fees, and \$100,000 for experts and other costs for the legal defense of the City and its employees, in *Loxas v. City of Scottsdale et al.*, currently pending in the United States District Court.

Staff Contact(s): Bruce Washburn, City Attorney, 480-312-2405, bwashburn@scottsdaleaz.gov

17. Lost or Abandoned Property Code Amendment

Request: Adopt **Ordinance No. 4051** amending Chapter 23, Article III, Sections 23-32 through 23-37, of the Scottsdale Revised Code pertaining to lost or abandoned property in the possession of the Scottsdale Police Department.

Staff Contact(s): Alan Rodbell, Public Safety Executive Director, 480-312-1900, arodbell@scottsdaleaz.gov

18. The Industry East Rezoning and Infill Incentive District (6-ZN-2012 and 4-II-2012)

Requests:

1. Adopt **Resolution No. 9249** declaring as a public record that certain document entitled "Industry East Development Plan Public Record."
2. Adopt **Ordinance No. 4054** approving a zoning district map amendment from Highway Commercial, Downtown Overlay (C-3, DO) to Downtown, Office Commercial Type 2, Downtown Overlay (D, OC-2, DO) and a Development Plan that includes approving a new site plan and modified development standards, which provide relief from the Zoning Ordinance's current development standards, including but not limited to, allowing a floor area ratio not to exceed 2.08, allowing building height not to exceed 70 feet, and allowing density not to exceed 59 dwelling units per acre, for a mixed-use project with 183 multi-family dwelling units and 5,375 square-feet of retail space; finding that the proposed zoning map amendment is consistent and conforms with the adopted General Plan; and finding that the goals and polices of the Downtown Infill Incentive District have been demonstrated on a 3.135± gross acre site.

Location: 7426 E. Stetson Drive

Staff Contact(s): Tim Curtis, Current Planning Director, 480-312-4210, tcurtis@scottsdaleaz.gov

19. The Industry West Rezoning and Infill Incentive District (7-ZN-2012 and 3-II-2012)

Requests:

1. Adopt **Resolution No. 9250** declaring as a public record that certain document entitled "Industry West Development Plan Public Record."
2. Adopt **Ordinance No. 4055** approving a zoning district map amendment from Highway Commercial, Downtown Overlay (C-3, DO) to Downtown, Office Commercial Type 2, Downtown Overlay (D, OC-2, DO) and a Development Plan that includes approving a new site plan and modified development standards, which provide relief from the Zoning Ordinance's current development standards, to amend development standards, including but not limited to, allowing a floor area ratio not to exceed 2.13, allowing building height not to exceed 70 feet, and allowing density not to exceed 59 dwelling units per acre, for a mixed-use project with 133 multi-family dwelling units, 1,500 square-feet of retail space, a 3,500 square-foot private health facility, and a 3,800 square-foot on-site leasing office; finding that the proposed zoning map amendment is consistent and conforms with the adopted General Plan; and finding that the goals and polices of the Downtown Infill Incentive District have been demonstrated on a 2.27± gross acre site.

Location: 7350 E. Stetson Drive

Staff Contact(s): Tim Curtis, Current Planning Director, 480-312-4210, tcurtis@scottsdaleaz.gov

19A. Scottsdale Stadium General Fund Capital Budget Contingency Appropriation Transfer

Request: Adopt **Resolution No. 9282** authorizing a General Fund Capital Budget Contingency appropriation transfer of \$166,353 to create a new CIP project to be titled Spring Training Improvements 2013, to be funded by contributions from the San Francisco Giants and the Arizona Sports Services. The project will expand the Giant's novelty storage space and add additional storage for the Arizona Sport Services.

Staff Contact(s): William Murphy, Community Services Executive Director, 480-312-7954, bmurphy@scottsdaleaz.gov

MOTION AND VOTE - CONSENT AGENDA

Vice Mayor Robbins moved to approve Consent Items 1 through 19A, absent items 9 and 11, which were moved to the Regular Agenda. Councilwoman Milhaven seconded the motion, which carried 7/0.

REGULAR AGENDA

9. Permanent Extension of Premise for Italian Grotto (70-EX-2012)

Request: Consider forwarding a recommendation to the Arizona Department of Liquor Licenses and Control for a permanent extension of premises for a series 12 (restaurant) liquor license.

Location: 3915 N. Scottsdale Road

Staff Contact(s): Tim Curtis, Current Planning Director, 480-312-4210, tcurtis@scottsdaleaz.gov

11. Italian Grotto Outdoor Dining License Agreement

Request: Adopt **Resolution No. 9212** authorizing Outdoor Dining License Agreement No. 2012-159-COS with M.S. White Enterprises LLP, for a patio area to be installed within the City right-of-way.

Location: 3915 N. Scottsdale Road

Staff Contact(s): Derek Earle, Public Works Acting Executive Director, 480-312-2776, dearle@scottsdaleaz.gov

(Items 9 and 11 were considered together.)

Concern was expressed that granting an extension of premises to the Italian Grotto would allow the restaurant to encroach upon a large portion of the common area near the intersection, making it uninviting to the public. In response, Current Planning Director Tim Curtis outlined the terms of the lease agreement and the extension of premises and advised that staff is comfortable with the proposal.

MOTION NO. 1 - ITEMS 9 AND 11

Councilman McCullagh moved to deny items 9 and 11.

Discussion:

- Mr. Curtis reported that the applicant has agreed to relocate the City trash can and include additional landscaping around the area, and stated that the patio will not encroach onto the existing sidewalk.

- Peter Valenzuela, applicant representative, explained that the proposed patio space will be 420 square feet, and is currently occupied by a City bench and some planters. There are approximately 9.5 feet of pedestrian sidewalk between the restaurant and the proposed patio that will remain available for pedestrian traffic flow.

VOTE ON MOTION NO. 1 - ITEMS 9 AND 11

The motion to deny items 9 and 11 died for lack of a second.

MOTION NO. 2 AND VOTE - ITEMS 9 AND 11

Councilwoman Klapp moved to approve items 9 and 11. Councilwoman Borowsky seconded the motion, which carried 6/1, with Councilman McCullagh dissenting.

20. **Sereno Canyon Spa and Resort Rezoning and Non-Major General Plan Amendment (1-ZN-2005#2, 10-GP-2011, and 16-ZN-2011)**

Requests:

1. Adopt **Ordinance No. 4053** amending a previously approved zoning case, Case No. 1-ZN-2005, by amending zoning case stipulations and amending the site plan in order to reduce the required Natural Area Open Space dedicated acreage and location on the 330± acre site, with Single-Family Residential District, Environmentally Sensitive Lands (R1-130/ESL) zoning for Case No. 1-ZN-2005#2.
2. Adopt **Resolution No. 9248** approving a non-major General Plan amendment from the General Plan Rural Neighborhoods Land Use designation to a General Plan Resort/Tourism Land Use designation for 132± acres for Case No. 10-GP-2011.
3. Adopt **Ordinance No. 4001** approving a zoning map amendment to rezone 95± acres, of a 227± acre site, from the Single-Family Residential District, Environmentally Sensitive Lands (R1-130/ESL) zoning designation to the Single-Family Residential District, Environmentally Sensitive Lands (R-1-43/ESL) zoning designation; and rezoning 132± acres of the 227± acre site from the Single-Family Residential Districts, Environmentally Sensitive Lands (R1-130/ESL) zoning designation to the Resort/Townhouse Residential, Environmentally Sensitive Lands (R-4R/ESL) zoning designation; finding that the proposed zoning map amendment is consistent and conforms with the adopted General Plan on the 227± acres site for Case No. 16-ZN-2011.

Location: Northwest corner of E. Pinnacle Peak and N. 28th Street between N. 122nd Street and N. 128th Street

Presenter(s): Jesus Murillo, Senior Planner

Staff Contact(s): Randy Grant, Planning, Neighborhood, and Transportation Administrator, 480-312-2664, rgrant@scottsdaleaz.gov

Senior Planner Keith Niederer gave a PowerPoint presentation (attached) on the Sereno Canyon Spa and Resort non-major General Plan amendment and rezoning requests. He also presented a proposed amendment to Stipulation No. 4 for Case No. 16-ZN-2011 to add the phrase "including the main/reception building having approximately 9,000 square feet" after the words "resort/spa units."

John Berry, applicant representative, said resorts are good for the economic health of the community, and that the voter-approved General Plan is replete with references to the importance of tourism and resorts in our community. He reported that the Sereno Canyon

proposal is in compliance with the General Plan and in conformance with the Dynamite Hills Character Area Plan, and that the residents outside, but directly adjacent to, the property are in support of the project.

Mayor Lane opened public testimony.

The following individuals spoke in support of the requests:

- Joy Berry, Scottsdale citizen
- Bridget Nielsen, Scottsdale citizen read a letter on behalf of Michael Catch
- Mike Husar, Scottsdale citizen
- Loren Molever, Scottsdale citizen
- Joe Galli, Scottsdale citizen
- Greg O'Keefe, Scottsdale citizen
- Mark Philp, Scottsdale citizen
- Jean Vahabzadeh, Scottsdale citizen (letter attached)

The following individuals spoke in opposition to the requests:

- Mike Corn, Scottsdale citizen
- John Hinchman, Scottsdale citizen
- Paul Sexson, Scottsdale citizen
- Richard Gunderson, Scottsdale citizen
- Guy Phillips, Scottsdale citizen
- Howard Myers, Scottsdale citizen
- Sam West, Scottsdale citizen
- Charles Kelley, Scottsdale citizen
- Jack Robinson, Scottsdale citizen
- Fred Grant, Scottsdale citizen
- James Davis, Scottsdale citizen
- Norbert Kleiner, Scottsdale citizen
- John Strasser, Scottsdale citizen
- John DiTullio, Scottsdale citizen
- Lynne Lagarde, representing Mr. Mike Husar and Sonoran Crest HOA, said an agreement with Crown that limits access on the Alameda Road to emergency access only has been worked out. A deed restriction, which cannot be changed without approval from the Sonoran Crest HOA, will be recorded based on that agreement. It is her understanding from staff that streets within Sereno Canyon can be private streets. Ms. Lagarde asked for confirmation that the proposed stipulation will not prevent the private streets and/or the deed restriction limiting Alameda Road to emergency access only and that there will be no construction access allowed on Alameda Road.

Mayor Lane closed public testimony.

Discussion:

- Current Planning Director Tim Curtis confirmed that the Sereno Canyon Spa and Resort non-major General Plan amendment and rezoning requests were properly noticed.
- City Attorney Bruce Washburn opined that the application was properly noticed for the General Plan action that is being taken. Referencing the major versus minor General Plan amendment discussion, Mr. Washburn said the General Plan states that the interpretation of the General Plan is, in the first instance, an administrative function. The City Attorney's office reviews each administrative interpretation to determine if sufficient facts exist to support it. In this instance there was a reasonable basis for the interpretation, and the plan is consistent with the City's past practice.
- Mr. Berry, in response to public comment, stated that preserve lands and state lands have been acquired to reduce the overall impact on transportation in the area. He noted that the General Plan anticipates these types of densities and that the development is not being built in excess of the General Plan traffic impacts. Mr. Berry confirmed that the proposed

stipulation will not restrict private streets, will limit Alameda Road to emergency access only, and there will be no construction access on Alameda Road.

- Mr. Berry reported that the applicant is meeting all of the City's requirements for providing water and waste water infrastructure for the resort. Additionally, the applicant has agreed to install Ranchgate Road and a portion of 118th Street in advance to provide access to Tom's Thumb Trailhead.
- A Councilmember opined that the resort is not an economic development issue, as framed by the applicant. Instead, the project is a ruse to get around the General Plan restrictions on residential zoning to create a high-density residential community.
- A comment was made that the proposed resort is directly in line with the General Plan's key value to promote tourism, and that it will be designed in such a way as to celebrate the natural environment.

MOTION - ITEM 20

Councilwoman Milhaven moved to: (1) Adopt Ordinance No. 4053 amending a previously approved zoning case, Case No. 1-ZN-2005, by amending zoning case stipulations and amending the site plan in order to reduce the required Natural Area Open Space dedicated acreage and location on the 330± acre site, with Single-Family Residential District, Environmentally Sensitive Lands (R1-130/ESL) zoning for Case No. 1-ZN-2005#2; (2) adopt Resolution No. 9248 approving a non-major General Plan amendment from the General Plan Rural Neighborhoods Land Use designation to a General Plan Resort/Tourism Land Use designation for 132± acres for Case No. 10-GP-2011; and (3) adopt Ordinance No. 4001 approving a zoning map amendment to rezone 95± acres, of a 227± acre site, from the Single-Family Residential District, Environmentally Sensitive Lands (R1-130/ESL) zoning designation to the Single-Family Residential District, Environmentally Sensitive Lands (R-1-43/ESL) zoning designation; and rezoning 132± acres of the 227± acre site from the Single-Family Residential Districts, Environmentally Sensitive Lands (R1-130/ESL) zoning designation to the Resort/Townhouse Residential, Environmentally Sensitive Lands (R-4R/ESL) zoning designation; finding that the proposed zoning map amendment is consistent and conforms with the adopted General Plan on the 227± acres site for Case No. 16-ZN-2011.

Discussion:

- In response to a question regarding private agreements with lot owners, Mr. Berry reported that there are private agreements with all but two lot owners. The agreement sets forth that, once 128th Street has been developed, lot owners will have the option to vote on whether to move the resort gate access.
- Mr. Berry was asked to afford the lot owners who did not take part in the private agreement with the developer the same opportunity as those that did. Mr. Berry said he will continue to work with those lot owners on behalf of the developer.
- In response to concerns regarding a gate at the 128th Street entrance, Mr. Washburn and staff proposed adding the following new stipulation: "The developer shall install gates internal to the subdivision as depicted on Exhibit B to Exhibit 1 to remain in place until removed by majority vote of those property owners whose access is limited by the gates."

AMENDED MOTION AND VOTE - ITEM 20

Councilwoman Milhaven moved to: (1) Adopt Ordinance No. 4053 amending a previously approved zoning case, Case No. 1-ZN-2005, by amending zoning case stipulations and

amending the site plan in order to reduce the required Natural Area Open Space dedicated acreage and location on the 330± acre site, with Single-Family Residential District, Environmentally Sensitive Lands (R1-130/ESL) zoning for Case No. 1-ZN-2005#2; (2) adopt Resolution No. 9248 approving a non-major General Plan amendment from the General Plan Rural Neighborhoods Land Use designation to a General Plan Resort/Tourism Land Use designation for 132± acres for Case No. 10-GP-2011; and (3) adopt Ordinance No. 4001 approving a zoning map amendment to rezone 95± acres, of a 227± acre site, from the Single-Family Residential District, Environmentally Sensitive Lands (R1-130/ESL) zoning designation to the Single-Family Residential District, Environmentally Sensitive Lands (R-1-43/ESL) zoning designation; and rezoning 132± acres of the 227± acre site from the Single-Family Residential Districts, Environmentally Sensitive Lands (R1-130/ESL) zoning designation to the Resort/Townhouse Residential, Environmentally Sensitive Lands (R-4R/ESL) zoning designation; finding that the proposed zoning map amendment is consistent and conforms with the adopted General Plan on the 227± acres site for Case No. 16-ZN-2011; subject to adding the phrase "including the main/reception building having approximately 9,000 square feet" to stipulation #4, after the words "resort/spa units," and adding the stipulation that the developer shall install gates internal to the subdivision as depicted on Exhibit B to Exhibit 1 to remain in place until removed by majority vote of those property owners whose access is limited by the gates. Mayor Lane seconded the motion, which carried 6/1, with Councilman Littlefield dissenting.

21. Tournament Players Club and PGA Tour Lease and Management Agreement Requests:

1. Adopt **Resolution No. 9030** authorizing Contract No. 1985-060-COS-A6, the sixth amendment to the lease and management agreement with Tournament Players Club of Scottsdale, Inc. and PGA Tour Inc.
2. Adopt **Resolution No. 9278** authorizing a Capital Contingency Transfer in the amount of \$14,055,000 to create a new CIP project titled TPC Clubhouse and Stadium Course Renovations to record all related financial transactions to be funded by MPC bonds backed by the Tourism Development Fund.
3. Waive Financial Policy No. 21a, which limits tourism capital project commitments to \$600,000 per project.

Presenter(s): Derek Earle, Public Works Acting Executive Director

Staff Contact(s): Derek Earle, Public Works Acting Executive Director, 480-312-2776, dearle@scottsdaleaz.gov

Acting Public Works Executive Director Derek Earle gave a PowerPoint presentation (attached) explaining the proposed amendment to the Tournament Players Club and PGA Tour lease and management agreement.

Mayor Lane opened public testimony.

- John Washington, Scottsdale citizen, spoke in opposition to the proposed amendment to the Tournament Players Club and PGA Tour lease and management agreement.

Mayor Lane closed public testimony.

A Councilmember expressed opposition to subsidizing private businesses, but allowed that maintaining the City-owned golf course to the PGA's standards is the City's responsibility.

MOTION - ITEM 21

Councilman McCullagh moved to: (1) Adopt Resolution No. 9030 authorizing Contract No. 1985-060-COS-A6, the sixth amendment to the lease and management agreement with Tournament Players Club of Scottsdale, Inc. and PGA Tour Inc.; (2) adopt Resolution No. 9278 authorizing a Capital Contingency Transfer in the amount of \$14,055,000 to create a new CIP project titled TPC Clubhouse and Stadium Course Renovations to record all related financial transactions to be funded by MPC bonds backed by the Tourism Development Fund; and, (3) Waive Financial Policy No. 21a, which limits tourism capital project commitments to \$600,000 per project. Mayor Lane seconded the motion.

Discussion:

- A Councilmember opined that it is no longer appropriate to refer to portions of the bed tax funds as slices because, as more money is collected, the dollars are being divided in different ways.
- City Treasurer David Smith provided a PowerPoint presentation (attached) on Bed Tax allocation alternatives.

VOTE - ITEM 21

The Council vote on the motion to: (1) Adopt Resolution No. 9030 authorizing Contract No. 1985-060-COS-A6, the sixth amendment to the lease and management agreement with Tournament Players Club of Scottsdale, Inc. and PGA Tour Inc.; (2) adopt Resolution No. 9278 authorizing a Capital Contingency Transfer in the amount of \$14,055,000 to create a new CIP project titled TPC Clubhouse and Stadium Course Renovations to record all related financial transactions to be funded by MPC bonds backed by the Tourism Development Fund; and, (3) Waive Financial Policy No. 21a, which limits tourism capital project commitments to \$600,000 per project carried 7/0.

22. Las Aguas Rezoning (8-ZN-2012)

Request: At the request of staff, continue to a date to be determined.

Staff Contact(s): Tim Curtis, Current Planning Director, 480-312-4210, tcurtis@scottsdaleaz.gov

At the request of staff, this item will be moved to a future agenda that is yet to be determined.

22A. Tony Nelssen Equestrian Center at WestWorld Construction Services Contract and CIP Contingency Transfer

Requests:

1. Adopt **Resolution No. 9266** authorizing CM@Risk Construction Services Contract No. 2012-004-COS-A3 with Howard S. Wright Constructors, LP, for a guaranteed maximum price of \$13,435,157, to upgrade and expand the Tony Nelssen Equestrian Center at WestWorld; and
2. Adopt **Resolution No. 9276** authorizing a CIP Contingency Transfer in the amount of \$4,200,000 to CIP Project D1102, Tony Nelssen Equestrian Center.

Presenter(s): Derek Earle, Public Works Acting Executive Director

Staff Contact(s): Paul Katsenes, Community and Economic Development Executive Director, 480-312-2890, pkatsenes@scottsdaleaz.gov

Public Works Acting Executive Director Derek Earle gave a PowerPoint presentation (attached) on the status of the Tony Nelssen Equestrian Center expansion.

MOTION AND VOTE - ITEM 22A, REQUEST NO. 1

Councilman Littlefield moved to adopt Resolution No. 9266 authorizing CM@Risk Construction Services Contract No. 2012-004-COS-A3 with Howard S. Wright Constructors, LP, for a guaranteed maximum price of \$13,435,157, to upgrade and expand the Tony Nelssen Equestrian Center at WestWorld. Councilwoman Klapp seconded the motion, which carried 6/1, with Councilwoman Milhaven dissenting.

MOTION AND VOTE - ITEM 22A, REQUEST NO. 2

Councilman Littlefield moved to adopt Resolution No. 9276 authorizing a CIP Contingency Transfer in the amount of \$4,200,000 to CIP Project D1102, Tony Nelssen Equestrian Center. Councilwoman Klapp seconded the motion, which carried 6/1, with Councilwoman Milhaven dissenting.

23. 2013 State Legislative Agenda

Request: Consider the approval of the City of Scottsdale's 2013 State Legislative Agenda.

Presenter(s): Brad Lundahl, Government Relations Director

Staff Contact(s): Brad Lundahl, Government Relations Director, 480-312-2683, blundahl@scottsdaleaz.gov

Government Relations Director Brad Lundahl gave a PowerPoint presentation (attached) on the 2013 State Legislative Agenda.

Discussion:

- Tax Reform – May 2012 Executive Order, Transaction Privilege Tax Simplification Task Force.
 - A Councilmember commented that proposed changes to the building and construction sales tax recalculations, which are still undefined, has raised concern. Mr. Lundahl agreed that it is a significant issue, noting that the City's FY11/12 construction sale tax revenues were \$12.9M.
- Salinity Control
 - Mr. Lundahl reported that the Joint Legislative Study Committee on Water Salinity Issues is becoming more active. A Councilmember questioned whether the City's new Executive Director of Water Resources would be able to assume the position previously held by Marshall Brown. Mr. Lundahl said he will look into how committee appointments are made.
- Streetlight Improvement Districts
 - Mr. Lundahl said if the proposed Streetlight Improvement District legislation passes it will allow the City to maintain improvements within the county districts and will free up money in the transportation fund, which will then be made available for other needs. City Treasurer David Smith noted that the light poles were donated, and, as they deteriorate, the cost for replacement will be passed on to the residents in each district through taxes.

PUBLIC COMMENT - None

CITIZEN PETITIONS

23. Receipt of Citizen Petitions

Request: Accept and acknowledge receipt of citizen petitions. Any member of the Council may make a motion, to be voted on by the Council, to: (1) Direct the City Manager to agendize the petition for further discussion; (2) direct the City Manager to investigate the matter and prepare a written response to the Council, with a copy to the petitioner; or (3) take no action.

Staff Contact(s): Carolyn Jagger, City Clerk, 480-312-2411, cjagger@scottsdaleaz.gov

No citizen petitions were received.

MAYOR AND COUNCIL ITEMS - None

ADJOURNMENT

With no further business to discuss, the Regular Meeting adjourned at 8:40 P.M.

SUBMITTED BY:



Carolyn Jagger
City Clerk

Officially approved by the City Council on _____

CERTIFICATE

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular Meeting of the City Council of Scottsdale, Arizona held on the 3rd day of December 2012.

I further certify that the meeting was duly called and held, and that a quorum was present.

DATED this 8th day of January 2013.

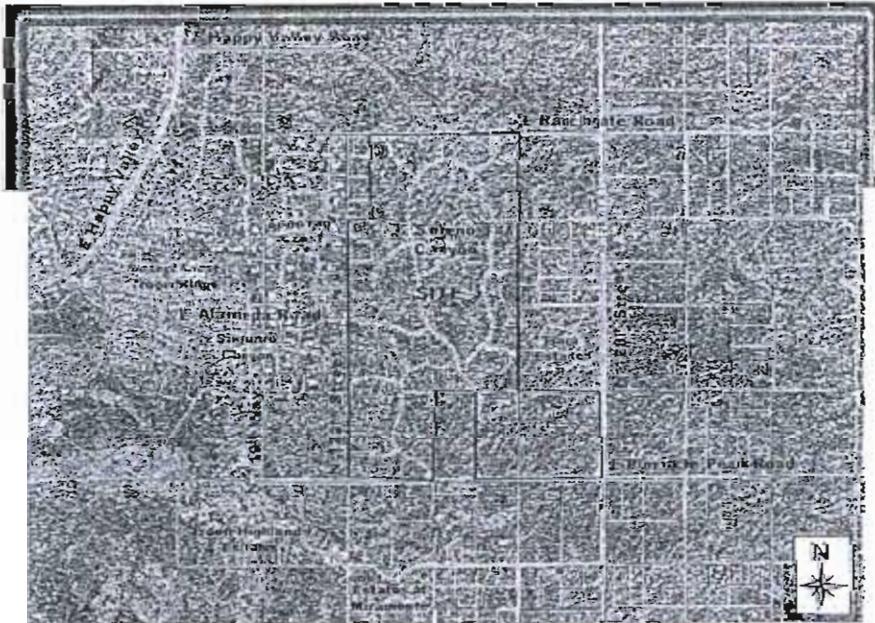
Carolyn Jagger, City Clerk

Item 20

Sereno Canyon Resort & Spa

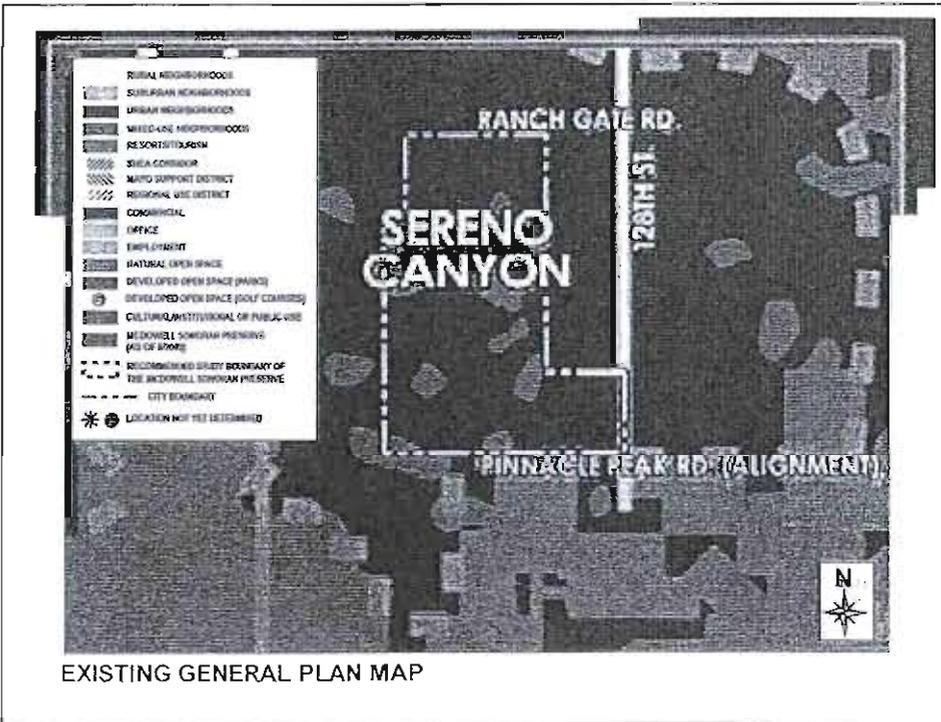
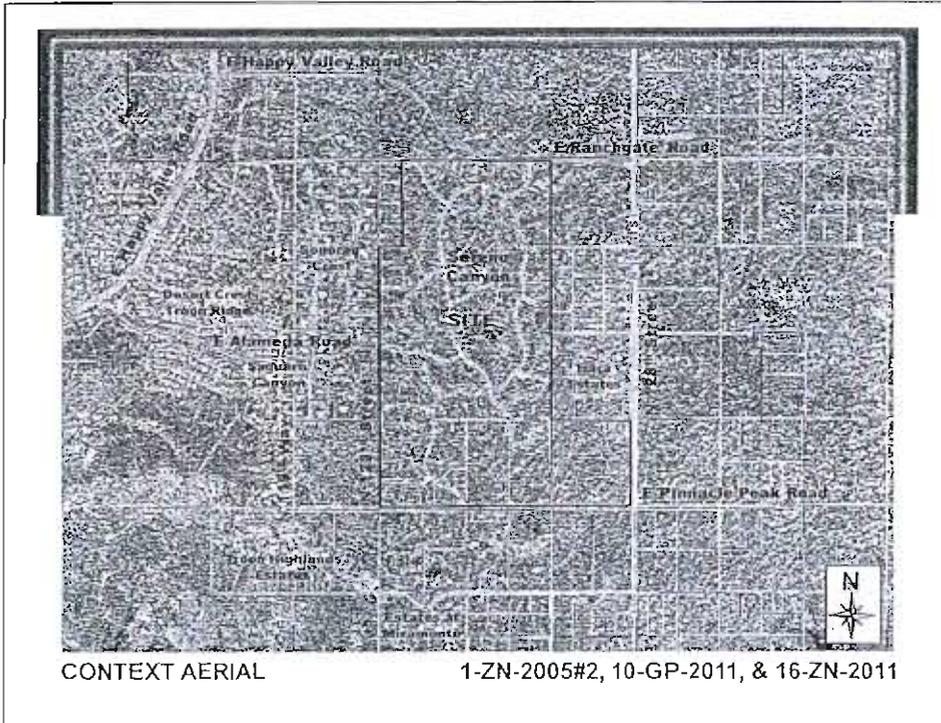
1-ZN-2005#2, 10-GP-2011, & 16-ZN-2011

City Council
December 3, 2012



CONTEXT AERIAL

1-ZN-2005#2, 10-GP-2011, & 16-ZN-2011





2001 Major Amendment Criteria

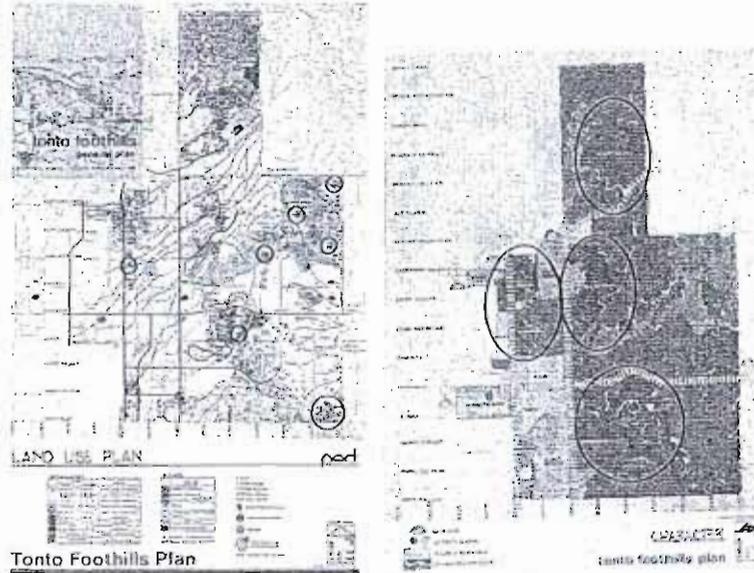
6. Changes to Land Use Categories

21 projects on the land use element are for land use changes. The following table lists the projects and the changes to the land use element.

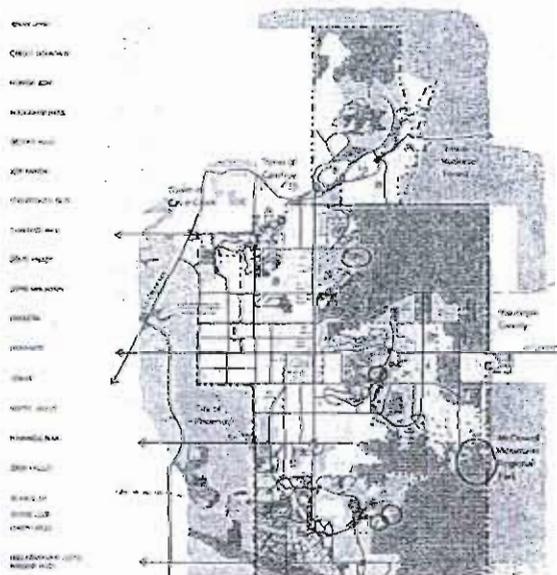
Project	City	Change #				
Project A	San Jose		10	10	10	10
Project B	San Jose			10	10	10
Project C	San Jose	10				10
Project D	San Jose	10	10			10
Project E	San Jose	10	10			

- Applicant's Request:
 - Rural Neighborhoods to Resort/Tourism
 - Assigning a Specific Location for the existing Resort Star Land Use

History of North Area Resort Land Uses/Stars



Existing Land Use Map - Resort Stars



Resort Stars:

- Indicates need for resort land use within the general area of the community

Resort/Tourism Land Use Definition

Resort/Tourism Land Use Definition

This category is designed for hotels and a variety of resorts. They can be freestanding or part of a resort community or master planned development. Resort locations capitalize on good transportation, the physical amenities of the area, and recreational or shopping opportunities. Hotels or resorts often include some ancillary retail, cultural and recreational uses. In some areas of the community lower density may be required to preserve desert character and environmental features, or it may be necessary due to land slopes or other physical constraints of the specific area. Medium density residential uses with a resort character and lifestyle may be integrated into resort uses and may share resort amenities. Resort uses often are placed next to open spaces as a key amenity.

REASON FOR EXISTENCE: The purpose of this land use is to provide a variety of recreational and cultural amenities for the community. The land use is intended to provide a variety of recreational and cultural amenities for the community. The land use is intended to provide a variety of recreational and cultural amenities for the community.

REASON FOR EXISTENCE: The purpose of this land use is to provide a variety of recreational and cultural amenities for the community. The land use is intended to provide a variety of recreational and cultural amenities for the community. The land use is intended to provide a variety of recreational and cultural amenities for the community.

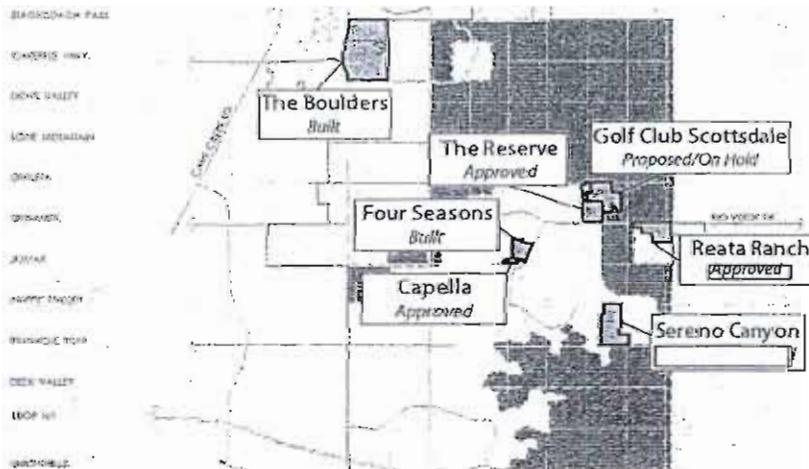
REASON FOR EXISTENCE: The purpose of this land use is to provide a variety of recreational and cultural amenities for the community. The land use is intended to provide a variety of recreational and cultural amenities for the community. The land use is intended to provide a variety of recreational and cultural amenities for the community.

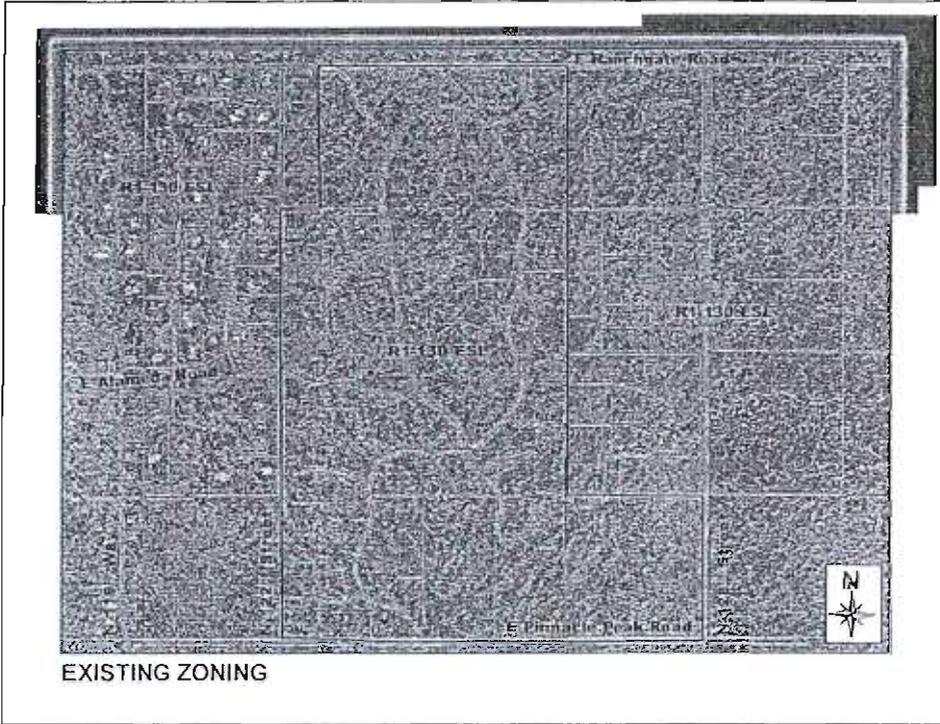
1/1/2010



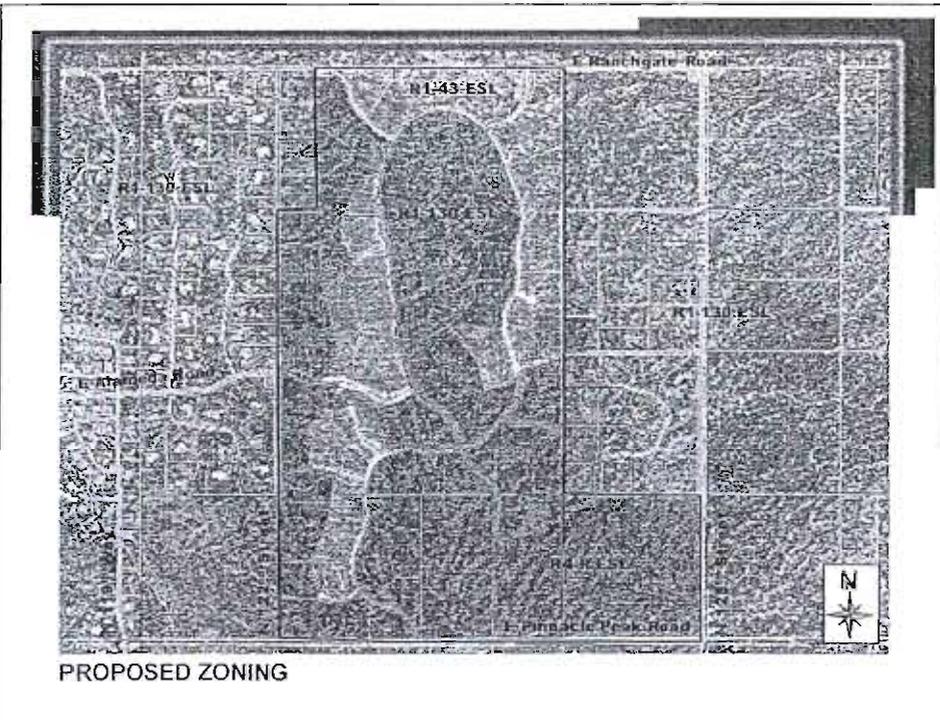
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Resorts: Existing and Proposed

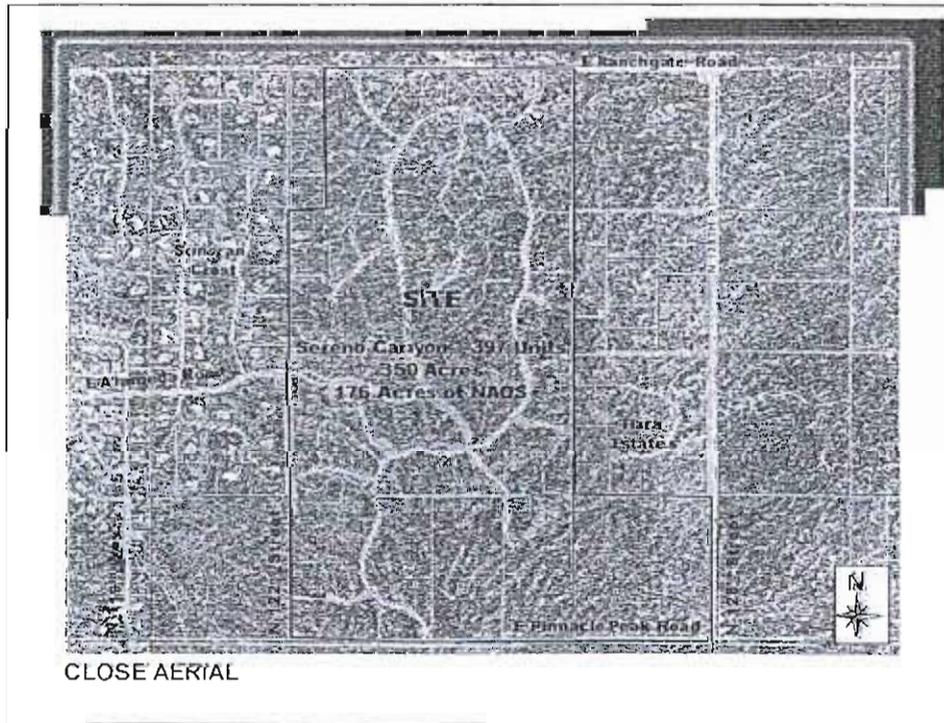
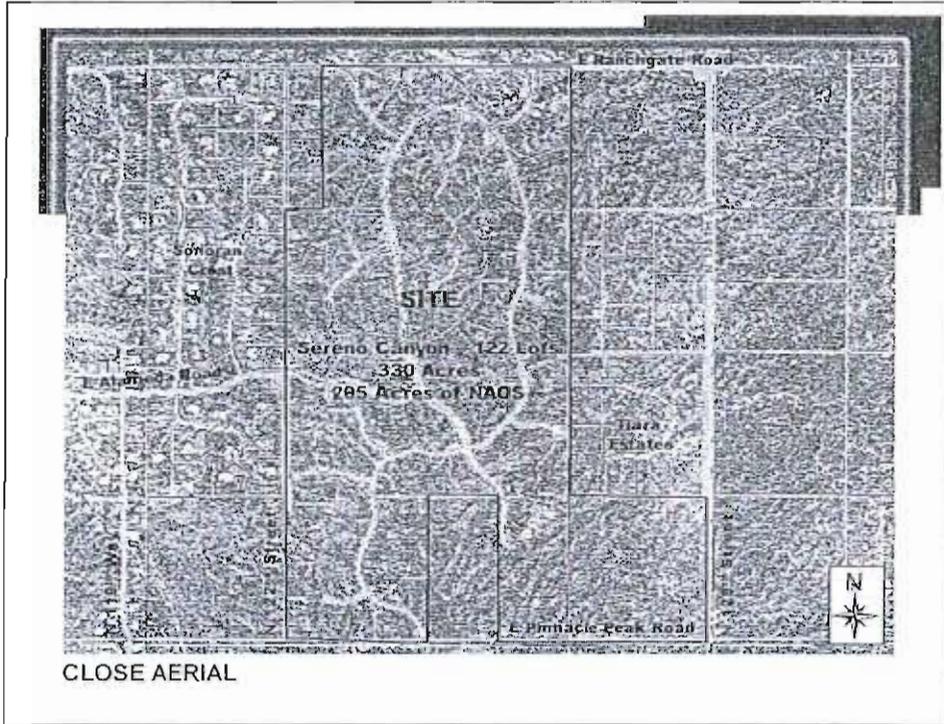


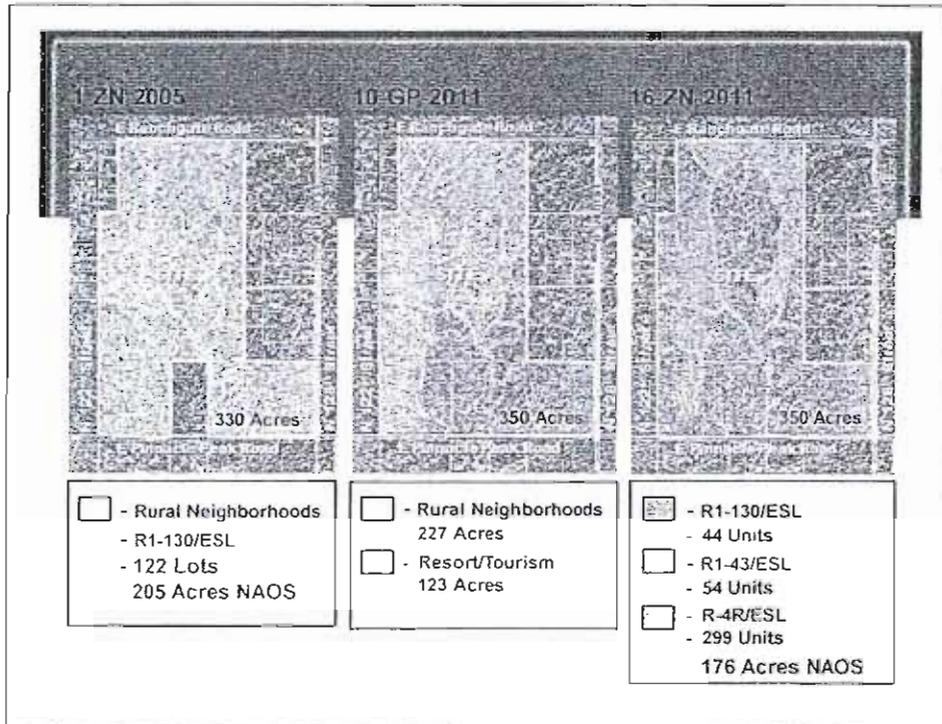


EXISTING ZONING

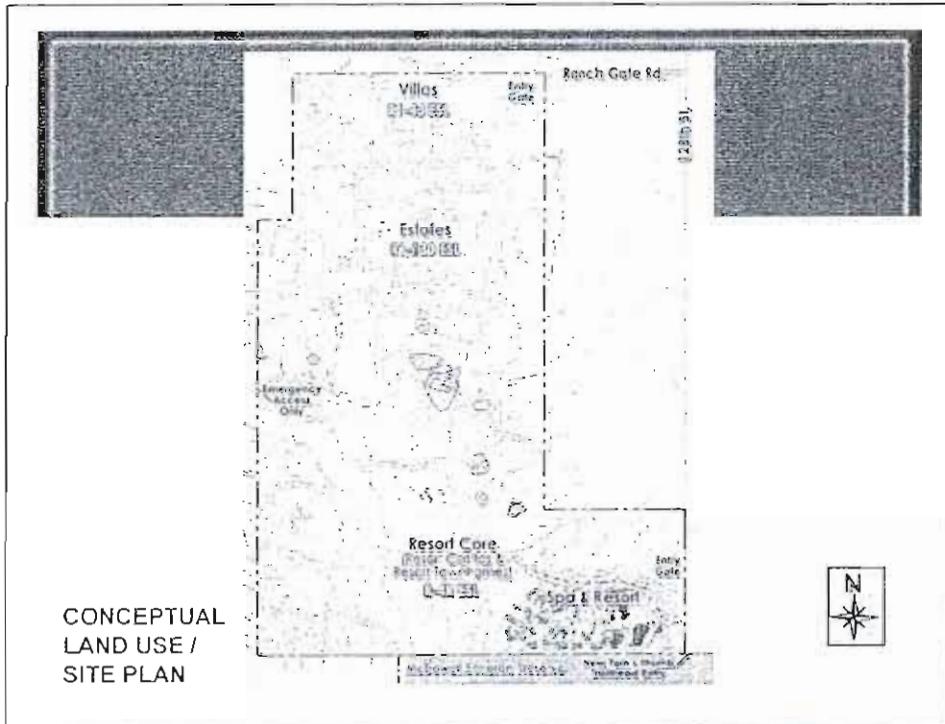


PROPOSED ZONING





	Standard R1-130/ESL (350 acres)	Approved R1-130/ESL (350 acres)	Proposed R1-130/ESL with standard R1-43/ESL & R-4R/ESL - 350 ac	Proposed (Current) R1-130/ESL with R1-43/ESL & R-4R/ESL - 350 ac
Zoning per Acre	R1-130/ESL (350 acres)	R1-130/ESL (350 acres)	R1-130/ESL (123 Acres) R1-43/ESL (95 Acres) R-4R/ESL (132 Acres)	R1-130/ESL (123 Acres) R1-43/ESL (95 Acres) R-4R/ESL (132 Acres)
Density	R1-130/ESL - 108 / 350 108 total units 0.31 du/ac	R1-130/ESL - 122 / 330 6 / 20 128 total units 0.36 du/ac	R1-130/ESL - 44 / 123 (.35 du/ac); R1-43/ESL - 78 / 95 (.83 du/ac); R-4R/ESL 995 - 1,402 / 132 (7.54 - 10.62 du/ac)	R1-130/ESL - 44 / 123 (.35 du/ac); R1-43/ESL - 54 / 95 (.56 du/ac); R-4R/ESL - 299 / 132 (2.2 du/acre)
NAOS	139 acres on 330 acres of R1-130; 8 acres on 20 acres 147 acres total	R1-130 205 acres / 330 acres & 8 acres on 20 acres 213 acres total	R1-130/ESL - 76 acres R1-43/ESL - 39 acres R-4R/ESL - 56 acres 171 acres total	R1-130/ESL - 81 acres R1-43/ESL - 39 acres R-4R/ESL - 56 acres 176 acres total
Building Height	24 feet	24 feet	R1/ESL Districts - 24ft R-4R/ESL Districts - 36ft	R1/ESL Districts - 24ft R-4R/ESL Districts - 24ft Resort Structure - 20ft



DRAFT

December 3, 2012

Mayor and City Council Members
City of Scottsdale
3939 N Drinkwater
Scottsdale, AZ 85251

*Re: Sereno Canyon Spa and Resort Rezoning/Case No. 1-ZN-2005#2, 10-GP-2011,
and 16-ZN-2011*

Dear Mayor and Council:

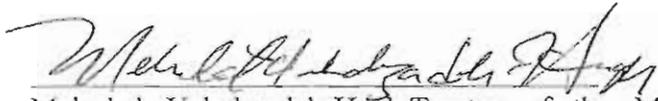
This correspondence confirms that we are in support of the Sereno Canyon proposed project contingent upon McDowell Mountain Back Bowl's, LLC ("Crown's") commitment and agreement to us and our successors in perpetuity as landowners of Maricopa County Assessors #217-01-018H, that they will, upon 'Final Approval' of zoning case numbers 1-ZN-2005#2, 10GP-2011, and 16-ZN-2011 (the "Re-zonings") by the City of Scottsdale, provide the following and as shown on attached letter and Exhibit "A":

- Restrict lots 1 (217-01-195), 2 (217-01-196), 4 (217-01-198), 5 (217-01-199), 8 (217-01-202), 9 (217-01-203), 10 (217-01-204), 11 (217-01-205), and 22 (217-01-216) as shown on the attached Exhibit "A" to single family residential homes and any uses customary and incidental to single family residential, per the City of Scottsdale's Zoning Ordinance; and
- Restrict lots 1 (217-01-195), 2 (217-01-196), 4 (217-01-198), 5 (217-01-199), 8 (217-01-202), 9 (217-01-203), 10 (217-01-204), 11 (217-01-205), and 22 (217-01-216) as shown on the attached Exhibit "A" from being included in any rental pool for the resort; and
- Maintain in their current platted configuration Lots 2 (217-01-196), 4 (217-01-198), 5 (217-01-199), 8 (217-01-202), 9 (217-01-203), 10 (217-01-204), and 11 (217-01-205) as shown on the attached Exhibit "A". Should any lot line adjustment be required in the future (which is unforeseen at this time), such an application will first be presented to us or our successors in perpetuity having ownership and interest in Maricopa County Assessors #217-01-018H land (South half of the south half of the west half of the west half of parcel 9, the Goldie Brown Pinnacle Peak Ranch Unit One, according to Book 191 of maps, page 26, Records of Maricopa County, Arizona), at that time, for review and approval, which shall not be unreasonably withheld, conditioned or delayed; and
- Within seventy-two (72) hours of the Final Approval, Crown will record a restricted covenant, as noted above, against the lots and Maricopa County Assessor numbers as noted above and on Exhibit "A", with the City of Scottsdale and the Maricopa County Recorder,

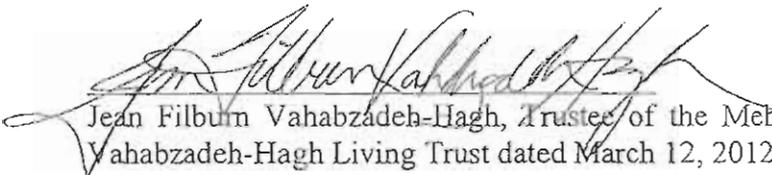
County Assessor's Office, to record this agreement as a binding restricted deed and covenant which benefits us and our successors in perpetuity having ownership and interest in the land registered as Maricopa County Assessors #217-01-018H (South half of the south half of the west half of the west half of parcel 9, the Goldie Brown Pinnacle Peak Ranch Unit One, according to Book 191 of maps, page 26, Records of Maricopa County, Arizona), by placing the burden and restriction on the listed restricted lots and Maricopa County Assessor numbers as noted above and on attached Exhibit "A".

If the above agreements are met as stated above by McDowell Mountain Back Bowl, LLC ("Crown") we would like to rescind our opposition to the Re-zonings.

We further ask that a copy of this letter, along with the attached agreement letter with McDowell Mountain Back Bowl, LLC ("Crown") and Exhibit "A" become a part of the public record and City's case file.



Mehrdad Vahabzadeh-Hagh, Trustee of the Mehrdad Vahabzadeh-Hagh and Jean Filburn Vahabzadeh-Hagh Living Trust dated March 12, 2012



Jean Filburn Vahabzadeh-Hagh, Trustee of the Mehrdad Vahabzadeh-Hagh and Jean Filburn Vahabzadeh-Hagh Living Trust dated March 12, 2012



DRAFT

jm v <jmvh78@gmail.com>

FW: Crown Letter

Wendy Riddell <wendyr@berrydamore.com>

Mon, Dec 3, 2012 at 2:33 PM

To: Jean's Gmail <jmvh78@gmail.com>

Cc: Alex Stedman <astedman@lvadesign.com>, John Berry <jb@berrydamore.com>, Hugh Smeed <hsmeed@gmail.com>

Hi Jean,

Attached please find an executed letter from Crown. Please confirm receipt.

Thank you.

Wendy Riddell

Attorney

BERRY & DAMORE, LLC

6750 E. Camelback Road, Suite 100

Scottsdale, Arizona 85251

602-616-8771 cell

480-385-2757 fax

wr@berrydamore.com

www.berrydamore.com

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From: Randi Atredies

Sent: Monday, December 03, 2012 2:28 PM

To: Wendy Riddell

Subject: Crown Letter

DRAFT

If you have any questions, please do not hesitate to contact me directly at 480-682-3900.

Sincerely,

Randi Jill Atredies

Office Manager
BERRY & DAMORE, LLC
6750 E. Camelback Road, Suite 100
Scottsdale, Arizona 85251
480-385-2727
480-385-2757 fax
ra@berrydamore.com

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 H. Smeed letter to Vahabzadeh-Hagh.PDF
82K



December 3, 2012

Mehrdad and Jean Vahabzadeh-Hagh
7574 E. Passaro Dr.
Scottsdale, AZ 85266

*Re: Sereno Canyon Spa and Resort Rezoning/Case No. 1-ZN-2005#2, 10-GP-2011,
and 16-ZN-2011*

Dear Mr. and Mrs. Vahabzadeh-Hagh:

This correspondence confirms, if zoning case numbers 1-ZN-2005#2, 10-GP-2011, and 16-ZN-2011 (the "Rezoning") are approved as Final Approval, by the Scottsdale City Council, that McDowell Mountain Back Bowl, LLC ("Crown") has committed they will:

- Restrict lots 1 (217-01-195), 2 (217-01-196), 4 (217-01-198), 5 (217-01-199), 8 (217-01-202), 9 (217-01-203), 10 (217-01-204), 11 (217-01-205), and 22 (217-01-216) as shown on the attached Exhibit "A" to single family residential homes and any uses customary and incidental to single family residential, per the City of Scottsdale's Zoning Ordinance;
- Restrict lots 1 (217-01-195), 2 (217-01-196), 4 (217-01-198), 5 (217-01-199), 8 (217-01-202), 9 (217-01-203), 10 (217-01-204), 11 (217-01-205), and 22 (217-01-216) as shown on the attached Exhibit "A" from being included in any rental pool for the resort; and
- Maintain in their current platted configuration Lots 2 (217-01-196), 4 (217-01-198), 5 (217-01-199), 8 (217-01-202), 9 (217-01-203), 10 (217-01-204), and 11 (217-01-205) as shown on the attached Exhibit "A". Should any lot line adjustment be required in the future (which is unforeseen at this time), such an application will first be presented to you or your successors in perpetuity having ownership and interest in Maricopa County Assessors #217-01-018H land (South half of the south half of the west half of the west half of parcel 9, the Goldie Brown Pinnacle Peak Ranch Unit One, according to Book 191 of maps, page 26, Records of Maricopa County, Arizona), at that time, for review and approval, which shall not be unreasonably withheld, conditioned or delayed; and
- Within seventy-two (72) hours of the Final Approval, Crown will record a restricted covenant, as noted above, against the lots and Maricopa County Assessor numbers as noted above and on Exhibit "A", with the City of Scottsdale and the Maricopa County Recorder, County Assessor's Office, to officially record this agreement as a binding restricted deed and covenant, which benefits you and your successors in perpetuity having ownership and interest in the land registered as Maricopa County Assessors #217-01-018H (South half of the south half of the west half of the west half of parcel 9, the Goldie Brown Pinnacle Peak Ranch Unit One,

DRAFT

according to Book 191 of maps, page 26, Records of Maricopa County, Arizona), by placing the burden and restriction on the listed restricted lots and Maricopa County Assessor numbers, as noted above and on attached Exhibit "A",

In exchange for this commitment, you will write a letter to the City rescinding your opposition to the Rezonings. If it is your desire that this agreement becomes part of the public record, and as such you should submit a copy of your rescission letter and this agreement to Jesus Murillo at jmurillo@scottsdaleaz.gov, with a copy to me at wr@herrvdamore.com, so that it might become a part of the City's case file.

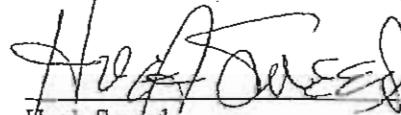
Crown's commitments noted above are expressly conditioned on your rescission of your opposition. Should you oppose the project in any way, this agreement is immediately null and void.

Thank you for your time and attention to this matter. Crown looks forward to being a good neighbor.

If the foregoing is acceptable to you, please acknowledge such by executing below.

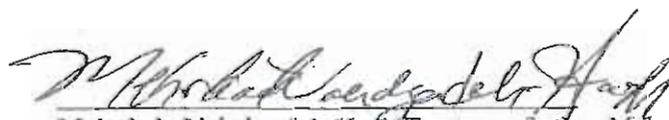
Sincerely

McDowell Mountain Back Bowl, LLC

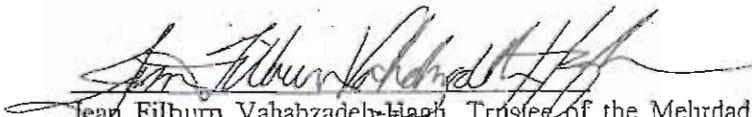


Hugh Smeed

AGREED AND ACCEPTED this
3rd day of December, 2012 by:

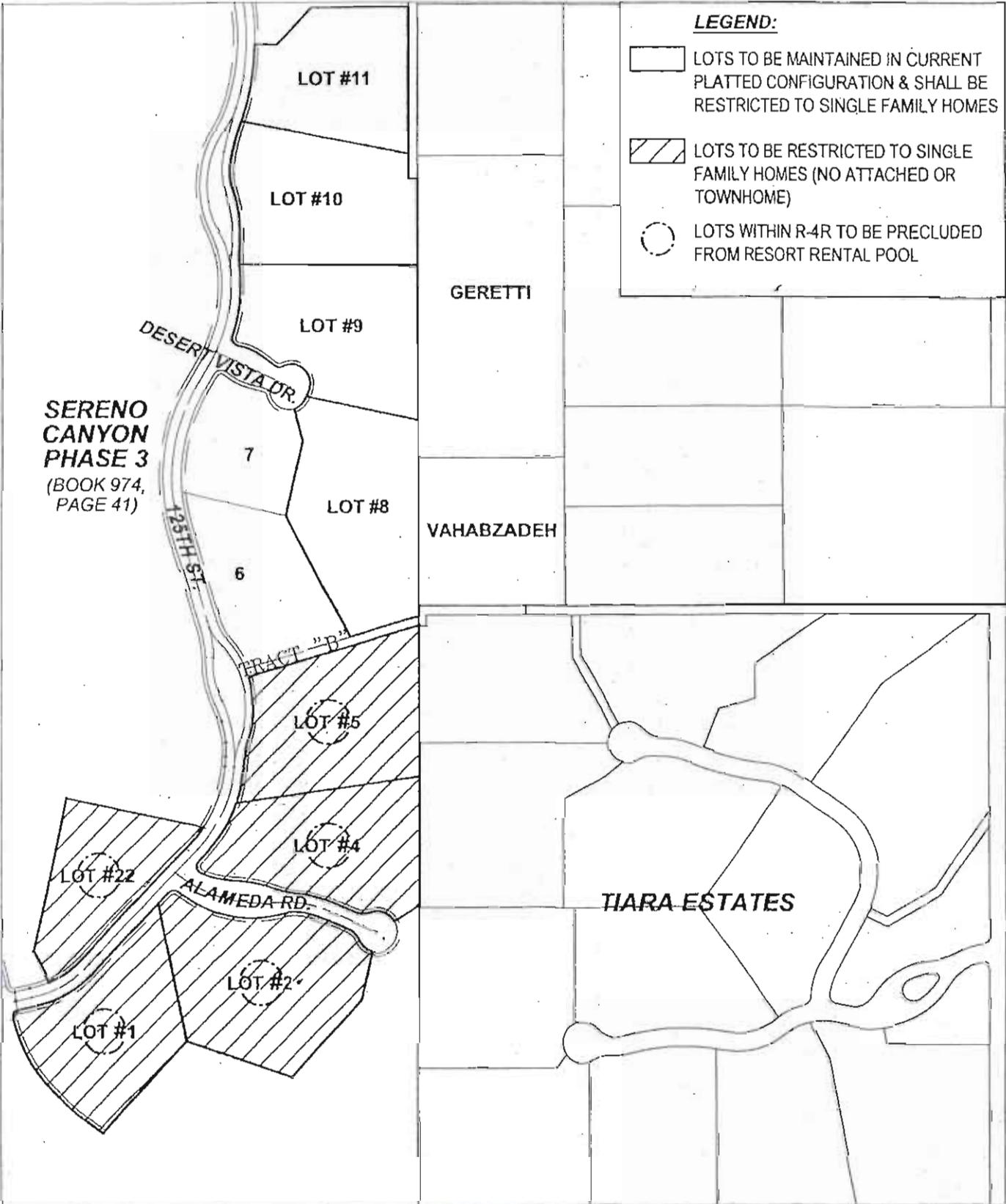


Mehrdad Vahabzadeh-Hagh, Trustee of the Mehrdad Vahabzadeh-Hagh and Jean Filburn Vahabzadeh-Hagh Living Trust dated March 12, 2012

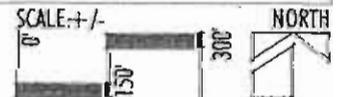


Jean Filburn Vahabzadeh-Hagh, Trustee of the Mehrdad Vahabzadeh-Hagh and Jean Filburn Vahabzadeh-Hagh Living Trust dated March 12, 2012

EXHIBIT A



NOTE: LOTS WITHIN THE R1-43 AND R1-130 ZONING DISTRICTS MAY NOT BE INCLUDED IN THE RESORT RENTAL POOL AND SHALL ONLY ALLOW FOR SINGLE FAMILY HOME DEVELOPMENT PER CITY OF SCOTTSDALE ORDINANCE.



Item 21

TPC Scottsdale Lease Amendment

City Council
December 3, 2012

Background

- Multiparty arrangement with City, BOR, TPC Scottsdale and PGA Tour
- Agreement signed 1985, facilities opened in 1986
- Site of Phoenix Open since Jan 1987
 - Highest attended PGA Tour event in the US
 - 2007 WP Carey Sports Business Program study:
 - "Among the largest contributors of economic impact from a golf event across the nation"
 - \$180M total economic impact
 - \$4.5M direct sales tax revenue
- Partnership with Princess Resort to create golf resort destination

2

Background



Existing Contract

City provides:

- Land: BOR & City
- Initial facility construction: \$14M
- Use: Lease/license facility to operator

TPC/ PGA Tour provides:

- Operate as public golf facility
- Pay operating expenses, includes capital repairs/ replacements
- Pay rent: 10% of golf income, 2% of sales
- Tournament: Commitment expired after 2006

Needs

Needs of TPC/PGA Tour

- Stadium club house improvements
- Stadium major course reconstruction

Needs of the City

- Commitment for the continuation of the tournament
- Continuing national television coverage of the event
- Support for debt service for improvements

5

Proposal Key Points

City provides:

- Stadium course and clubhouse improvements in 2013/14
- *TPC retains responsibility for all other improvements*
- *Enhanced audit rights*

TPC/PGA Tour provides:

- Annual PGA Tour tournament through 2022
- Guaranteed national TV coverage through 2021
- Additional 2.5% payment on golf revenues to city

6

Tournament Commitment

Through 2015

- If not held due to failure of sponsor – TPC/PGA Tour shall make a payment of 80% of debt service – otherwise city may cancel agreement

2016 through 2022

- If not held *more than once* due to failure of sponsor – TPC/PGA Tour shall make a payment of 80% of debt service – otherwise city may cancel agreement

Force Majeure

- no penalty if due to Force Majeure (flood, act of god)

7

Funding Sources

Special revenue fund for tourism development

- Annual debt service for \$15M debt is approximately \$1.1M
- Golf Course % payment increase 2.5% - \$175,000 to \$200,000 annually
- TDC commitment of 1 slice of bed tax revenue - \$600,000 annually
- Additional ½ slice of bed tax - \$300,000 annually

8

Requested Action

Adopt Resolution 9030 authorizing the Mayor to execute Contract 1985-060-COS-A6, an amendment to the lease and management agreement between the city, Tournament Players Club of Scottsdale, Inc., and PGA Tour, Inc.

Adopt Resolution 9278 authorizing a Capital Contingency Transfer in the amount of \$14,055,000 to create a new CIP project titled TPC Clubhouse & Stadium Course Renovations to record all related financial transactions to be funded by MPC bonds backed by the Tourism Development Fund

Waive Financial Policy No. 21a which limits tourism capital project commitments to \$600,000 per project.

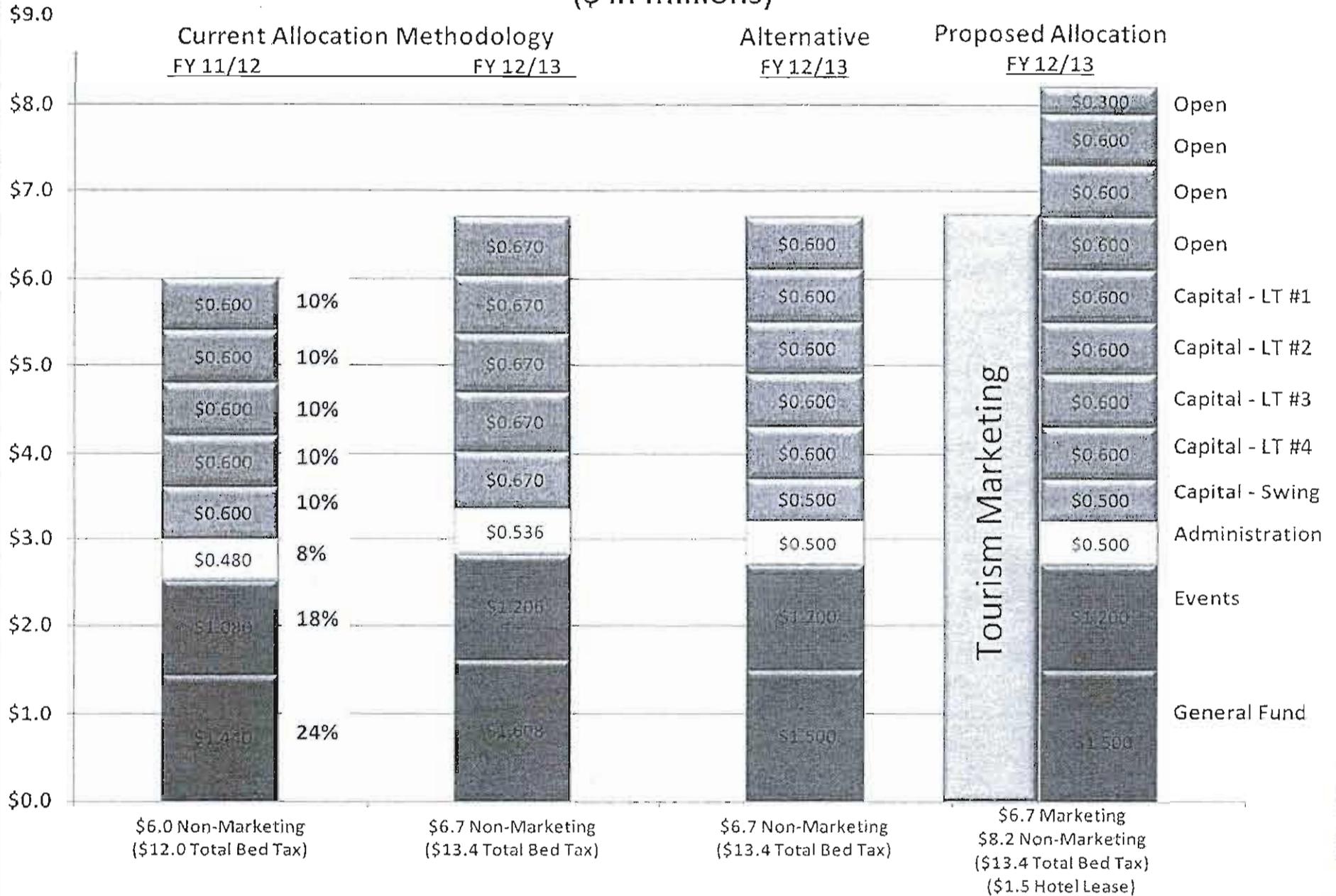
9

Discussion & Direction

10

Bed Tax Allocation Alternatives

(\$ in millions)



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Item 22A

Tony Nelssen Equestrian Center Update



City Council

December 3, 2012

Request of Council

Adopt Resolution 9266 authorizing Construction Manager at Risk Construction Services Contract 2012-004-COS-A3 with Howard S. Wright Constructors, LP for a guaranteed maximum price of \$13,435,157 to upgrade and expand the Tony Nelssen Equestrian Center at WestWorld

Adopt Resolution 9276 authorizing a CIP Contingency Transfer in the amount of \$4,200,000 to CIP Project D1102, Tony Nelssen Equestrian Center.



Current Status of Project

- South Hall, Equidome and Paddock 95% complete
 - *Scottsdale Classic Futurity and Quarter Horse Show held on 9/27*
- Utility/drainage relocation for North Hall 95% Complete
- North Hall plans complete
- North Hall building pad complete
- North Hall construction on hold pending construction contract approval and resolution of capital budget



3

Budget Status

\$42,800,000 Capital Project budget approved 03/20/2012
\$2,180,000 Unanticipated modifications to project (change orders)
\$4,200,000 Inaccurate Construction Manager estimate
(\$1,430,000) Minor modifications to the building scope
(\$750,000) Improved cost with rebidding of project
\$47,000,000 Required capital budget to complete facility

\$4,200,000 CIP Contingency transfer required for completion of facility



4

Budget Status

- Inaccurate estimate from Construction Manager
 - Resulted from using "rules of thumb" for estimating cost of larger facility

- Phase I construction changes
 - Structural upgrades related to existing Equidome structure
 - Unexpected upgrade of utilities
 - Change in phasing plan
 - New requirements for users

5



Efforts to Resolve Shortfall

- Consider Scope revisions to facility
 - Major scope revisions (revise facility program)
 - Minor scope revisions (value engineering)

- Outside Construction Auditor

- Review of bids by Independent Contractor

- Direction to Const. Manager to rebid project

6



Requested action

Adopt Resolution 9266 authorizing Construction Manager at Risk Construction Services Contract 2012-004-COS-A3 with Howard S. Wright Constructors, LP for a guaranteed maximum price of \$13,435,157 to upgrade and expand the Tony Nelssen Equestrian Center at WestWorld

Adopt Resolution 9276 authorizing a CIP Contingency Transfer in the amount of \$4,200,000 to CIP Project D1102, Tony Nelssen Equestrian Center.



7

Questions/Discussion



Item 23

***Proposed 2013 State
Legislative Program***

City of Scottsdale
Government Relations Office
December 3, 2012

2013 State Legislative Program

- First Regular Session of the 51st Legislature begins January 14, 2013

New Leadership in the Senate:

- President Andy Biggs (R- Gilbert)
- Speaker of the House remains Andy Tobin (R- Prescott Valley)

Legislative District 23

Senate

- Michele Reagan

House of Representatives

- John Kavanagh
- Michelle Ugenti

Legislative District 24

Senate

- Katie Hobbs

House of Representatives

- Lela Alston
- Chad Campbell (House Minority Leader)

Legislative District 28

Senate

- Adam Driggs

House of Representatives

- Kate Brophy McGee
- Eric Meyer

2013 State Legislative Agenda

- Input from City Leadership
- Two Sections
 - Core Principles
 - Policy Items
- Incorporation of General Plan Elements
 - 12 Elements

2013 State Legislative Program

- For consideration tonight:
 1. Add, subtract, or amend *Policy Items*.
 2. Consider approval of 2013 State Legislative Agenda.

Core Principles

- Protect Scottsdale's Quality of Life
- Preserve Local Funding
- Oppose Preemption of Local Authority

Scottsdale's Shared Revenues

- General Fund Revenues for FY 12/13 include \$47.6 million in state-shared revenues
 - State Income Tax: \$18.3 million
 - State Sales Tax: \$18.2 million
 - Auto Lieu Tax: \$7.3 million
- Approximately 20% of Scottsdale General Fund Revenues and Cash Transfers In.
- State-shared revenues fund 21% of City's General Fund Operating budget

Support/Oppose Items

Tied to General Plan Elements

- Economic Vitality
- Neighborhoods
- Preservation and Environmental Planning
- Public Services and Facilities

Economic Vitality

- **Economic Vitality** –
 - SUPPORT working with the State, other governments, and private enterprises to identify future economic growth opportunities.
 - OPPOSE legislation that would diminish the ability of local governments to provide support services to local business or revitalize areas within City boundaries.
 - OPPOSE efforts that would create additional regulatory or administrative hurdles to the local economic engine.

Economic Vitality

- **HURF** –
 - Highway User Revenue Fund; state gas taxes and other fees.
 - Designated for highway construction and transportation infrastructure at state and local levels.
 - Existing statute allows Dépt. of Public Safety (DPS) to receive \$10 million annually.

Economic Vitality

- HURF –
 - In FY11/12 \$37.8 million HURF monies were reallocated from local governments to the DPS and MVD. (\$1.5 million loss to Scottsdale).
 - SUPPORT the continued viability of HURF funding to cities and towns and support phasing down the percentage of HURF revenues being used to fund the Arizona Department of Public Safety.

Economic Vitality

- Tourism –
 - SUPPORT efforts to increase the visibility of Arizona, Scottsdale and other Arizona cities and towns as being tourism destinations.

Economic Vitality

- Tax Reform –
 - Governor created Transaction Privilege Tax Simplification Task Force.

 - 3 Working groups established:
 - State and Local TPT Standardization
 - Taxes on Online Retail
 - State & Local Contracting

 - Final recommendations December 31, 2012

Economic Vitality

- Tax Reform –
 - SUPPORT reasonable efforts to streamline and simplify the state and municipal tax codes.

 - OPPOSE changes to the tax code that would have significant negative impacts to City revenue streams.

Neighborhoods

- **Political Signs –**
 - HB 2500 prohibits City from removing political signs 60 days prior to primary and 15 days after general elections.

 - SEEK/SUPPORT legislation to amend or repeal HB 2500 to address the concerns of Scottsdale citizens.

Neighborhoods

- **Fireworks –**
 - OPPOSE efforts to preempt the local control of the use of fireworks.

- **Fire Code –**
 - OPPOSE legislation that negatively impacts the City's Fire Code or its ability to enforce its Fire Code provisions.

***Preservation & Environmental
Planning***

- **State Land Reform –**
 - SUPPORT legislation that makes positive changes to State Land policies allowing cities and towns the ability to preserve land for open space.

***Preservation & Environmental
Planning***

- **Salinity Control –**
 - SUPPORT legislation to mitigate salinity accumulation, including collaborative measures to minimize the impacts of sodium chloride from water softeners.

Preservation & Environmental Planning

- **Forest Restoration –**
 - SUPPORT legislative efforts to bring about changes in forest management with the goal of enacting effective and large-scale forest restoration efforts to improve forest health, increase water yield, and reduce the risks from catastrophic wildfires.

Public Services & Facilities

- **Street Light Improvement Districts; Consolidation; O & M**
 - Special taxing district that allows residents to integrate street lights into their neighborhoods.
 - Property tax is levied to pay for energy costs. O & M not allowed by law.
 - Approximately 355 street light improvement districts operated by the City.
 - Approximately 30-40 districts operated by Maricopa County.

Public Services & Facilities

- **Street Light Improvement Districts; Consolidation; O & M**
 - Proposed legislation would allow:
 - Timely consolidation of the operation of SLID's;
 - O & M costs be incorporated into SLID annual assessment so that direct beneficiaries of the lights are paying the O & M costs.

Public Services & Facilities

- **Street Light Improvement Districts; Consolidation; O & M**
 - SEEK legislation that would allow a city, which has county managed SLIDs with the city's boundary to assume their jurisdiction.
 - Legislation would authorize SLIDs to levy and expend funds for operation and maintenance costs of the SLID (in addition to energy costs).

Public Services & Facilities

- **Scottsdale Water Service** –
 - Protect and enhance the City's ability to provide safe, sustainable, and reliable water and wastewater at a reasonable cost. Examples of legislation that may fall under this statement include:
 - Legislation to ensure the City's role in the management and continued use of reclaimed water and surface water.
 - Legislation to increase supplies of water through efficiency improvements or natural resource management.
 - Legislation to maintain municipal access to supplies of Central Arizona Project delivered water.

Any Questions?

- For more information, contact the City of Scottsdale Government Relations Office